THE HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION NO.18663 OF 2007

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Date: 17.9.2007

Between:

Kadiyala Venkateswarlu. … Petitioner.

And

The Station House Officer,
Kavali, I Town Police Station,
Nellore District & another. …. Respondents.

ORAL ORDER: **(per A. Gopal Reddy, J)**

The telegram dated 28.8.2007 sent by the petitioner to the Hon'ble the chief Justice alleging that the respondents have illegally detained his mother Kadiyala Pramila and brother Kadiyala Prasad from the midnight of 25.8.2007 and their whereabouts are not known, that when he went to the Police Station, Kavali and questioned the police why they were kept in custody, the police threatened him with dire consequences saying that they would book a murder case against them and that he apprehend danger to the alleged detenus, was taken up as a writ of habeas corpus.

In response to the notice issued, the Sub-Inspector of Police, Kavali I town Police Station filed counter stating that the alleged detenu No.1 – Kadiyala Pramila is A.1 in C.C.No.129 of 2003, A.3 in C.C.No.227 of 2003 and A.4 in CC.No.286 of 2003 on the file of Additional Judicial Magistrate of first class, Kavali for the offence punishable under sections 3 and 4 of Prevention of Immoral traffic Act and in all the said calendar cases the alleged detenu No.1 is facing trial along with the other accused. It is further alleged that an NBW is pending against the alleged detenu No.1 who is A.1 in CC.129/2003. While acquitting A.2, the said case was split up against her and numbered as CC.No.321 of 2007. She is also facing trail in C.C.NO.287 of 2003. In execution of the NBWs pending against the alleged detenu in the above cases, she was arrested on 26.8.2007 and produced before the Court on 27.8.2007 and on such production, the learned Magistrate remanded her to judicial custody and

subsequently she was released on bail on 31.8.2007 and she appeared before the Court on 10.9.2007 in all the cases. As regards alleged detenuNo.2, it is stated that he was never illegally detained by the police and no case is either registered or pending against him. When the police tried to contact him, to record his statement by the Mandal Executive Magistrate he is not available in the village and wantonly absconded for the reasons best known to him. At no point of time he was apprehended and detained by the police. The petitioner who gave statement before the Mandal Executive Magistrate, Kavali on 12.9.2007 admitted that his mother is arrayed as accused in cases pending before the Additional Judicial First Class Magistrate, Kavlai and when the police came to their house to execute the warrants against his mother, his brother ran away on seeing the police. He also stated that the police arrested his mother and produced her before the Court, that immediately he approached one Advocate Sri Rehman Saheb and at his instance the telegram was sent alleging that his brother along with his mother were illegally detained by the police.

From the averments made in the counter it is clear that the alleged detenu No.1 was arrested in connection with several cases registered against her on 26.8.12007 and wass produced before the jurisdictional Magistrate on 27.8.2007 who remanded her to judicial custody and subsequently she was enlarged on bail. Therefore, the allegation in the telegram sent by the petitioner that she was illegally detained by the policies is not correct. As regards alleged detenu No.2, the counter categorically says that no case is registered against him and, therefore, there was no occasion for the police to detain him. Further, the statement of the petitioner recorded by the Mandal Executive Magistrate which was filed along with the counter discloses that when her mother was arrested by the police in execution of the

NBWs pending against her, his brother Prasad (alleged detenu No.2) ran away on seeing the police and without knowing the same he got the telegram issued through an advocate.

In view of the above, the allegation that the alleged detenus were illegally detained are not true and the telegram appears to have been sent only to stall the execution of the lawful orders of the Court. We, therefore, see no merit in the contents of the telegram. The Writ Petition is accordingly dismissed.

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A. GOPAL REDDY, J

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17th September, 2007 **P. SWAROOP REDDY, J**

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